



June 11, 2013

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Chairman Jeffrey Young
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

RE: Post-Construction Requirements – Draft Resolution No. R-3-2013-0032

Dear Chairman Young,

The City of Goleta appreciates the opportunity to meet with Board Members to share our concerns about the final draft of the Central Coast post-construction requirements. While we recognize that progress has been made in addressing some of the concerns that arose from the Order that was adopted in September 2012, and subsequently voided by the State Water Board upon adopting the new Phase II General Permit for Municipalities, there remain a number of aspects in the current draft Order that continue to be problematic for our City, some of which are summarized in this letter.

The 95th percentile runoff retention requirements result in oversized BMPs for certain soils.

- Performance Requirement No. 3 (PR3) for type D soils results in oversized stormwater control measures. In other words, there will be less runoff from the site than would occur from natural conditions.
- Sixty-four (64) percent of soils in Goleta's jurisdiction are Hydrologic Soil Group (HSG) D soils. HSG D soils are "very slow" infiltrative soils.
- Oversized control measures have no additional environmental benefit.
- The cost associated with ensuring compliance w PR 3, especially with respect to application of type D soils, is not justified.
- Application of the 95th percentile is not adequately supported by the findings and exceeds the MEP standard. There needs to be disclosure of the analytic route the CCWB traveled from evidence to action and clear articulation of "the relationship between evidence and findings, and between findings and ultimate action."

The criteria and definition of what will qualify as an Urban Sustainability Area needs to be broadened so that it has application in Region 3.

- CCWB staff has indicated that the criteria and definition of what will qualify as an USA in Region 3 shall be based on the same factors used in the San Francisco Regional Permit, since that was approved by another Water Board and therefore has standing. We recognize there are few, if any, locations within Region 3 that mimic the high-density conditions in San Francisco Bay Area, and so the criteria

used by Water Board staff to approve USAs needs to be broadened, so that it has meaning and application on the Central Coast. Not only are those urban areas not likely to be found on Central Coast, the Bay Area permit reductions were based on a less stringent retention requirement to begin with (4% impervious area), which makes them even less appropriate for direct comparison.

- Since the USA option is there, Water Board staff should be willing to consider the type of urban areas we see on Central Coast, and find our urban areas suitable for inclusion in a USA. Board should ask staff if they could envision areas of Urban Sustainability within existing urban clusters found on Central Coast. If the answer is “no”, then why was the USA off-ramp included?

The point at which discretionary projects will be subject to the PCRs at the effective implementation date needs to be adjusted.

- The current Draft Order specifies that a regulated project would be subject to the PCRs, at the effective implementation date, if it has not yet received its first discretionary approval of project design.
- This criteria may impact many projects with vested interests, and year's of completed design which have not yet received a first discretionary approval. The definition of when a project is subject to the PCRs as of the effective implementation date needs to be earlier in the process, such as when a proposed project is deemed complete for environmental review, or even upon first project application.

Exemption to retention requirement of PR3 should be allowed for projects draining anywhere ineffective to maintain or restore beneficial uses, such as hardened channels into tidally influence sloughs or ocean.

- The City of Goleta has several potentially developable sites that drain directly into tidally influenced sloughs. There is little or no opportunity for channel modification to occur, and there would be no groundwater recharge benefit to be realized by retention. Any off-site mitigation for this site would have to occur further up in the watershed.

The proposed implementation date of September 6, 2013 is impractical and needs to be extended.

- The original, voided, Order of September 2012 specified an implementation date of September 6, 2013. In light of the developments since the original adoption, uncertainty regarding the final status and form of the revised Order, has left not enough time for permittees to put in place enforceable mechanisms, or to develop adequate guidance materials and training for municipal Planning and engineering staff, as well as the development community.
- An extension of 6-12 months is requested in order to provide adequate time to put in place enforcement mechanisms and develop and provide adequate guidance materials and training to meet the requirements of the PCRs assumed to be adopted on July 12, 2013.

The off-site alternative to the runoff retention requirements is infeasible.

- Goleta has little open space for off-site mitigation. Most open space within Goleta's sphere of influence is protected as designated Environmentally Sensitive Habitat Areas (ESHAs) or agricultural land.
- On November 6, 2012, Goleta voters passed an initiative such that large open spaces zoned for agricultural use will be restricted for development through December 1, 2032.

- These reductions make it virtually impossible for some project proponents to use the off-site alternative compliance provisions when the PCRs cannot be met on-site.
- Because off-site compliance must be achieved within the same watershed as the regulated project, unless otherwise approved by the CCWB's EO, those project proponents that cannot find a site in Goleta may struggle to find a viable alternative.

The ten percent adjustment for sites with technical infeasibility is not supported by evidence in the record, and is ambiguous.

- Rather than specifically excluding impractical applications of PR 3, the PCRs include alternative provisions for when compliance with the requirement may not be technically feasible.
- Where there is technical infeasibility, projects can implement retention-based stormwater control measures (SCMs) on ten percent of the effective impervious surface area of the site.
- This requirement is an area-based design (e.g. square feet) applied to a volume control requirement (e.g. cubic feet). It is based on the fact that 3-feet of subsurface gravel storage results in impossibly large bioretention areas for Type D soils. However, there is no limit on the vertical scale. Therefore, given a deep enough system (like a drywell), or using very tall cisterns, the entire Retention Volume could be managed.. That does not provide any reduction at all.
- The ten percent value is arbitrary and inflexible. It was presumably based on the assumption that typical projects use about 10% of the site for landscaping. This assumes that every project has 10% of site in landscaping, which is often not the case for urban infill, and that the entire landscaping area is dedicated to retention-based BMPs, regardless of slope, configuration, circulation, visual impacts, or existing conditions. It also presumes these retention-based BMPs maximize retention of the 95th percentile runoff, which in fact is not stated in the PCRs. Therefore, the 10% EISA provision might end up retaining some significantly lesser volume, using some areas of pervious pavement or depressed landscaping.
- There are no proposed findings that link evidence in the record to the requirement to support the ten percent EISA reduction.

Sincerely,

Steve Wagner
Public Works Director